

Message Text

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PAGE 01 KARACH 01234 01 OF 02 180522Z

13

ACTION NEA-12

INFO OCT-01 ADP-00 EB-11 AID-20 HEW-08 TRSE-00 OMB-01

COME-00 L-03 SS-15 NSC-10 STR-08 CIAE-00 INR-10

NSAE-00 PA-03 RSC-01 USIA-12 PRS-01 RSR-01 /117 W

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R 180415Z JUL 73

FM AMCONSUL KARACHI

TO SECSTATE WASHDC 7360

AMEMBASSY ISLAMABAD

INFO AMCONSUL LAHORE

AMEMBASSY NEW DELHI

AMCONSUL PESHAWAR

LIMITED OFFICIAL USE SECTION 1 OF 2 KARACHI 1234

E.O. 11652: ADS: DECON 12/31/73

TAGS: EIND, PK, US

SUBJECT: PHARMACEUTICALS: TWO STEPS FORWARD, ONE STEP BACK

REF: A) ISLAMABAD 5330 B) KARACHI 1116 C) ISLAMABAD 5670

SUMMARY: REPRESENTATIVES OF FIVE U.S. DRUG MANUFACTURERS CALLED ON CONSUL GENERAL JULY 16 TO EXPRESS CONCERN ABOUT GOP DECISION TO SHORTEN LIST OF EXEMPTED BRAND NAME PRODUCTS ENJOYING PATENT PROTECTION. GROUP EXPRESSED ONLY MILD ANNOYANCE AT NECESSITY TO RELABEL NON-EXEMPTED PRODUCTS AND TO SEEK HEAD OFFICE ADVICE ON HOW TO PROCEED. THEIR MAIN CONCERN WAS THAT JULY 6 GOP DECISION TO REMOVE EXEMPTIONS MAY BE HARBINGER OF MOVES TO WEAKEN PATENT RIGHTS. GROUP WILL KEEP CONGEN INFORMED OF RESULTS OF MEETING SCHEDULED JULY 19 IN ISLAMABAD BETWEEN HEALTH MINISTER AND PAKISTAN PHARMACEUTICAL MANUFACTURERS ASSOCIATION AT LATTER'S REQUEST. END SUMMARY.

1. JULY 16 REPRESENTATIVES OF FIVE RESIDENT AMERICAN PHARMACEUTICAL COMPANIES (CYANAMID, PFIZER, SEARLE, STERLING LIMITED OFFICIAL USE

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PAGE 02 KARACH 01234 01 OF 02 180522Z

AND WYETH) MET WITH CONSUL GENERAL AND E-C OFFICER. MEETING

HAD BEEN REQUESTED URGENTLY BY NAWAB ASGHER. MANAGING DIRECTOR OF PFIZER, ON BEHALF OF ALL RESIDENT AMERICAN PHARMACEUTICAL MANUFACTURERS TO DISCUSS PROBLEMS CREATED BY JULY 6 GOP ACTION TO SHORTEN LIST OF BRAND NAME DRUGS EXEMPTED FROM DRUGS (GENERIC NAMES) ACT (REPORTED REF. C).

2. GROUP CONFIRMED THAT GOVERNMENT FAILURE TO EXTEND EXEMPTIONS HAD COME AS UNANTICIPATED SHOCK. INFORMED SOURCES WITHIN MINISTRY OF HEALTH HAD ASSURED THEM THAT HEALTH MINISTER SHEIKH RASHID IN DECIDING TO SHORTEN LIST, HAD OVER-RULED COLLECTIVE ADVICE OF ALL TECHNICAL STAFF.

3. GROUP WENT ON TO PRESENT SHORT-TERM AND LONG-TERM

PROBLEMS U.S. PHARMACEUTICAL MANUFACTURERS FACE AS RESULT. THE MOST MINOR DIFFICULTY WAS THE OBVIOUS REQUIREMENT TO RELABEL AS GENERIC NON-EXEMPTED BRAND-NAME DRUGS. SOMEWHAT MORE SERIOUS WAS THE IMMEDIATE NECESSITY FOR AMERICAN HEADOFFICES DECIDE HOW TO REACT TO GOVERNMENT NON-EXEMPTION ACTION. FIVE LOCAL REPS HAD ALL ADVISED HEADOFFICES TO ACCEPT GOP DECISION. TWO FIRMS ADDED, HOWEVER, THAT INITIAL REACTION OF HEADOFFICES HAD BEEN NEGATIVE. ALL FIVE LOCAL REPS APPEARED CONFIDENT HEADOFFICES WOULD ACCEPT THEIR ADVICE, BUT ADMITTED THAT CONCEIVABLE THAT HEADQUARTERS MIGHT ELECT (A) DISCONTINUE TO PRODUCE NON-EXEMPTED PRODUCT IN PAKISTAN OR (B) DISINVEST ALTOGETHER.

4. GROUP'S GREATEST CONCERN WAS WITH LONG-TERM IMPLICATIONS OF DECISION NOT TO EXEMPT BRAND NAME DRUGS NOW PROTECTED BY PATENTS FROM EFFECTS OF DRUG (GENERIC NAMES) ACT. AS NOTED REF B, SIMILAR GROUP ON JUNE 26 HAD EXPRESSED CONSIDERABLE SATISFACTION WITH WORKING RELATIONSHIP THEY HAD ACHIEVED WITH GOP. BUT WILLINGNESS OF HEALTH MINISTER TO OVERRULE CONCERTED ADVICE OF HIS TECHNICAL STAFF HAD, IN INTERIM, CAUSED GROUP TO QUESTION RATIONALE OF THEIR EARLIER SATISFACTION AND THEIR ABILITY INTERPRET SIGNALS COMING FROM HEALTH MINISTRY. QUESTION REPEATEDLY ASKED DURING JULY 16 MEETING WAS LIMITED OFFICIAL USE

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PAGE 03 KARACH 01234 01 OF 02 180522Z

"WHAT IS GOVERNMENT'S ULTIMATE INTENTION TOWARD US?" GROUP'S MAIN FEAR IS THAT NON-EXEMPTION ACTION IS HARBINGER OF SERIES OF MOVES LEADING ULTIMATELY TO GENERAL WEAKENING OR ABOLITION OF PATENT RIGHTS.

5. GROUP SAID THEY HAD ASSUMED GOP'S EARLIER DECISION TO ALLOW LOCAL MANUFACTURERS CONTINUE USE BRAND NAMES FOR

ITEMS FOR WHICH THEY HELD EXCLUSIVE PATENTS WAS BASED
ON GOP'S OPINION THAT TO DO OTHERWISE WOULD VIOLATE

INTERNATIONAL LAW, CREATE DIFFICULTIES WITH FOREIGN
GOVERNMENTS AND CAUSE FOREIGN MANUFACTURERS EITHER REFUSE
TO PRODUCE THEIR PATENT-PROTECTED PRODUCTS UNDER GENERIC
LABELS OR TO DISINVEST ALTOGETHER. IN THIS CONNECTION
GROUP SPECULATED THAT EARLIER DECISION BY CIBA-GEIGY
DISCONTINUE DRUG MANUFACTURE IN PAKISTAN MAY HAVE GIVEN
HEALTH MINISTRY PAUSE.

6. PFIZER REP SKETCHED POSSIBLE SCENARIO WHICH GROUP
FEARED MIGHT BECOME REGULAR PATTERN IN FUTURE PRICE
NEGOTIATIONS WITH GOP: HEALTH MINISTRY WOULD CONFRONT
FOREIGN MANUFACTURER WITH EVIDENCE THAT A LOCAL "GARAGE"
FIRM IS PRODUCING CERTAIN PATENTED DRUG AND RETAILING
AT 20 PERCENT FOREIGN MANUFACTURER'S PRICE. WHILE LAMENTING
ILLEGALITY OF ACTION OF DOMESTIC COMPETITOR, MINISTRY
WOULD ALSO POINT OUT THAT PRODUCT IS SAFE TO USE --
BEING BASED ON PIRATED RAW MATERIAL IMPORTED FROM ITALY.
MINISTRY WOULD THEN EXERT PRESSURE ON FOREIGN PRODUCER
TO REDUCE RETAIL PRICE TO LEVEL OF GARAGE MANUFACTURER
IN ORDER TO RECEIVE ASSURANCE OF EFFECTIVE GOP ACTION

AGAINST ILLEGAL COMPETITION. GROUP SAID THAT SIMILAR
PATTERN OF NEGOTIATION HAS BEEN FACED BY U.S. MANUFACTURERS
IN INDIA DURING PAST SEVERAL YEARS.
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PAGE 01 KARACH 01234 02 OF 02 180503Z

13
ACTION NEA-12

INFO OCT-01 ADP-00 EB-11 AID-20 HEW-08 TRSE-00 OMB-01

COME-00 SS-15 NSC-10 STR-08 CIAE-00 INR-10 NSAE-00

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FM AMCONSUL KARACHI
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LIMITED OFFICIAL USE SECTION 2 OF 2 KARACHI 1234

7. CONSUL GENERAL NOTED THAT GROUP'S FEAR ABOUT FUTURE
GOP POLICY AS YET IN HIGHLY SPECULATIVE STAGE
AND, THEREFORE DIFFICULT TO FORMULATE ANY SCENARIO FOR
U.S. REPRESENTATIONS TO GOP. GROUP SAID PAKISTAN
PHARMACEUTICAL MANUFACTURERS ASSOCIATION (PPMS) ALSO HAD NOT
YET REACHED CONSENSUS ON BEST APPROACH TO GOP. GROUP
SAID IT IS SAFE TO ASSUME THAT AFTER DECEMBER 31 WILL BE
NO RPT NO FURTHER EXEMPTIONS FOR BRAND-NAME PRODUCTS --
BUT BEYOND THAT REALLY DIFFICULT TO FORECAST FUTURE
GOP MOVES. PPMA REPRESENTATIVES WERE TO MEET HEALTH
MINISTER JULY 19 AT THEIR REQUEST BUT WERE NOT OPTIMISTIC
ABOUT UTILITY OF EXERCISE. GROUP AGREED KEEP CONGEN
INFORMED OF DEVELOPMENTS -- PARTICULARLY ANY DECISION
BY PPMA OR U.S. HEADOFFICES ON FUTURE APPROACHES TO GOP.

8. COMMENT: AFTER RECENT PHASE OF TWO STEPS FORWARD,
RAPPORT OF DRUG INDUSTRY AND GOP HAS CLEARLY GONE ONE
STEP BACK. EXPERIENCE IN INDIA SUGGESTS THAT U.S. FIRMS'
CONCERN ABOUT POSSIBLE ENCROACHMENT MAY WELL BE JUSTIFIED.
COLLISION APPEARS ALMOST INEVITABLE BETWEEN HEALTH
MINISTRY POLICY OF MAKING MEDICINE FREELY AVAILABLE AT
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PAGE 02 KARACH 01234 02 OF 02 180503Z

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